

requester receives a payment from a third-party payor in specific circumstances. In those circumstances, the Secretary has a right to be reimbursed by the third-party payor. The circumstances in which the Secretary may assert this right include those in which the Secretary pays benefits under this Program to a requester before a final decision is made that a third-party payor has an obligation to pay such benefits to the requester. Requesters receiving benefits under this Program (or their representatives) shall assist the Secretary in recovering such benefits. In the event that a requester receives a benefit from a third-party payor after receiving the same type of benefits from the Secretary under this Program, the Secretary has a right to recover the amount of the benefits awarded from the requester.

### Subpart J—Reconsideration of the Secretary's Determinations

SOURCE: 68 FR 70096, Dec. 16, 2003, unless otherwise noted.

#### § 102.90 Reconsideration of the Secretary's eligibility and benefits determinations.

(a) *Right of reconsideration.* A requester has the right to seek reconsideration of the Secretary's determination that he or she is not eligible for payment. In addition, a requester who asserts that the amount of the benefits paid by the Secretary (or the fact that certain benefits were not paid or payable) is incorrect may also seek reconsideration. Letters seeking reconsideration must be in writing, describe the reason(s) why the decision should be reconsidered, and be postmarked within 60 calendar days of the date of the Secretary's decision on the request. Because no new documentation will be considered in the reconsideration process, the letter seeking reconsideration may not include or refer to any documentation that was not before the Secretary at the time of his initial determination.

(b) *Letters seeking reconsideration.* A requester, or his or her representative, may send a letter seeking reconsideration through the U.S. Postal Service, commercial carrier, or a private courier service.

The Secretary will not accept letters seeking reconsideration electronically or by hand-delivery.

(1) Letters sent through the U.S. Postal Service must be sent to the Associate Administrator, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 12-105, Rockville, Maryland 20857.

(2) Letters sent through a commercial carrier or private courier service must be sent to the Associate Administrator, Healthcare Systems Bureau, Parklawn Building, Room 12-105, 5600 Fishers Lane, Rockville, Maryland 20857.

(c) *Reconsideration process.* When the Associate Administrator of the Healthcare Systems Bureau (the Associate Administrator), receives a letter seeking reconsideration, a qualified panel will be convened, independent of the Program, to review the Secretary's initial determination. The panel will base its recommendation on the documentation before the Secretary when the initial determination(s) was made. The panel will perform its own review and make its own findings, which will be submitted to the Associate Administrator. The Associate Administrator will then review the panel's recommendation(s) and make a final determination, which will be sent to the requester (or his or her representative). This will be the Secretary's final action on the letter seeking reconsideration and will be considered the Secretary's final determination on the request. Requesters may not seek review of a decision made on reconsideration.

[68 FR 70096, Dec. 16, 2003, as amended at 71 FR 29811, May 24, 2006]

#### § 102.91 Secretary's review authority.

Under section 262(f)(1) of the Public Health Service Act (42 U.S.C. 239a(f)(1)), the Secretary may, at any time, review on his own motion or on application, any determination made under this part (including, but not limited to, determinations concerning eligibility, entitlement to benefits, and the calculation and payment of benefits under the Program). Upon review of such a determination, the Secretary

may affirm, vacate, or modify the determination in any manner the Secretary deems appropriate.

**§ 102.92 No additional judicial or administrative review of determinations made under this part.**

Under section 262(f)(2) of the Public Health Service Act (42 U.S.C. 239a(f)(2)), no further judicial review of the Secretary's actions under this part (including, but not limited to, eligibility determinations, the calculation of benefits, and determinations about the method of payment of benefits) is permitted. In addition, no further administrative review of the Secretary's actions under this part is permitted unless the President specifically directs otherwise.

**PART 110—COUNTERMEASURES INJURY COMPENSATION PROGRAM**

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